

ARTICLE I  
CORPORATE NAME

Section 101. Corporate Name

This Charter is the municipal corporation charter of the Town of Kensington, the corporate name of which is the Town of Kensington.

Section 102. Definitions

- (a) The terms “town,” “city,” “municipality,” or “municipal corporation” shall each mean the Town of Kensington.
- (b) The term “mayor” means the chief executive and administrative officer who shall enforce the laws of the Town of Kensington and require the faithful exercise of all administrative powers and performance of duties, as contained in this article. The Mayor shall also be the “President” or “Presiding Officer” of the Council.
- (c) The term “public ways” as used in this charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

## ARTICLE II

### GENERAL CORPORATE POWERS

#### Section 201. General Corporate Powers

The inhabitants of Kensington within the corporate limits legally established from time to time are hereby constituted and continued a body corporate by the name of “The Town of Kensington” with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law, to have and use a common seal and to have perpetual succession, unless the charter and the corporate existence are legally abrogated.

ARTICLE III  
CORPORATE LIMITS

Section 301. Public Filing of Corporate Boundaries

The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court for Montgomery County, the Commissioner of the Land Office and the Director of the Department of Legislative Reference. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the Town. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

ARTICLE IV  
THE COUNCIL

Section 401. President of the Council

Under this Article the president or presiding officer of the Council shall be the Mayor who shall preserve order and decorum at all regular and special meetings of the Council.

Section 402. Number, Selection, Term

All legislative powers of the Town shall be vested in a Council consisting of four (4) Council Members, who shall be elected as hereinafter provided and who shall hold office for a term of two (2) years or until the succeeding Council takes office. The regular term of the Mayor and the Council Members shall expire on the last day of June immediately following the election of their successors. The Council Members holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding Council takes office under the provisions of this Charter.

Section 403. Qualifications of Council Members

Council Members shall have resided in the Town for at least one year immediately preceding their election and shall be qualified to be registered voters of the Town. Council Members shall maintain permanent residence in the Town during their term of office.

Section 404. Compensation of Council Members

Each Council Member shall receive annual compensation which shall be equal for all Council Members and shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the compensation specified at the time any Council Member takes office shall not be changed during the term for which that Council Member was elected.

Section 405. Meetings of the Council

The Council shall meet regularly at such times as the Council may determine but not less frequently than once each month. Meetings of the Council shall be open to the public, except that the Council may meet in closed session for any lawful purpose allowed by §3-305 of the General Provisions Article, Annotated Code of Maryland. Residents of the Town shall have a reasonable opportunity to be heard at any public

meeting in regard to any municipal question. At the first Council meeting in July following an election on the first Monday in June as provided in Section 709 of this Charter, the newly elected Council shall meet for the purpose of organization.

The absence of the Mayor or any Council Member from three meetings of the Town Council during a calendar year, without being formally excused by the Town Council, shall result in that office being deemed vacant and the office shall be filled as set forth in Section 714, "Vacancies".

Section 406. President and President Pro Tem of Council

The Mayor shall serve as president of the Council and shall be entitled to a vote only in the event of a tie vote of the Council. At the first meeting in July the Council shall elect a president pro tem of the Council from among its members, who shall act as president of the Council in the absence of the president.

Section 407. Quorum

A majority of the members of the Council shall constitute a quorum for the transaction of business.

Section 408. Procedure of Council

The Council shall determine its own rules and order of business. It shall keep minutes of its proceedings and enter therein the yeas, nays, or abstentions upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The minutes of public meetings shall be open to public inspection.

Section 409. Ordinances

No ordinance shall be passed at the meeting at which it is introduced. A public hearing is required prior to adoption of an ordinance. Upon formal introduction, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council shall be:

1. Posted at the Town Hall by the next business day;
2. Posted on the official Town website;
3. Sent to those persons listed on the official Town email list/mail subscription service; and
4. Published once prior to the public hearing in the Town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to

be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it.

All ordinances shall become effective on the date specified in the ordinance, which shall not be prior to twenty (20) days following approval of said ordinance. In cases of emergency, the above requirements may be suspended by the unanimous votes of all members of the Council present with a minimum of a quorum present. An emergency ordinance shall become effective on the date specified in the ordinance. Upon adoption, the ordinance or a fair summary thereof shall be:

1. Posted at the Town Hall by the next business day for at least two (2) weeks;
2. Posted on the official Town website;
3. Sent to those persons listed on the official Town email list/mail subscription service; and
4. Published once in the Town newsletter.

#### Section 410. File of Ordinances

Ordinances shall be permanently filed by the Town Manager or Designee and shall be kept available for public inspection.

#### Section 411. Referendum

- (a) If, before the 28<sup>th</sup> day after passage of any action, a petition is filed with the Town Manager or Designee containing the signature of not less than twenty percent (20%) of the qualified voters of the Town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the Town for their approval or disapproval, the Council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the town at the next regular Town election, or in the Council's discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, the operation of the ordinance or the part thereof requested for referendum shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part

thereof, levying property taxes for the payment of a legally incurred existing indebtedness, but the provisions of this section shall apply to any ordinance, or part thereof, levying special assessment charges. The provisions of this section shall be self-executing, but the Council may adopt ordinances in furtherance of these provisions and not in conflict with them.

- (b) Neither the Mayor, the Town Council, nor any member or representative thereof shall present to the Montgomery County Council, the Maryland-National Capital Park and Planning Commission or to any members, employees (or subdivision thereof) any official proposal or recommendation for the more intensive use of land within the corporate limits of the Town than has been approved by said Park and Planning Commission (i) unless said proposal or recommendation has been approved by the Mayor and all members of the Town Council in a recorded vote on the specific proposal or (ii) unless said proposal or recommendation has been approved by a majority of voters in a special election.
- (c) The Town Council shall not issue any bonds of the Town of Kensington, nor in any one (1) fiscal year incur any indebtedness unless and until it has submitted the precise proposal in a special election and has received the specific approval of a majority of the votes cast in said special election provided, however, that this provision shall not apply in procuring funds to pay existing indebtedness legally incurred or to borrowing money for public works in anticipation of taxes through the issuance of tax anticipation warrants or their equivalent in a sum not in excess of tax revenues conservatively estimated to be received within the ensuing six (6) months.

## ARTICLE V

### THE MAYOR

#### Section 501. Definition

Under this article the term “mayor” is the chief executive and administrative officer who shall enforce the laws of the Town of Kensington and require the faithful exercise of all administrative powers and performance of duties, as contained in this Article.

#### Section 502. Selection and Term

The Mayor shall be elected as hereinafter provided and shall hold office for a term of two (2) years or until the succeeding Mayor takes office. The newly elected Mayor shall take office on the first day of July following the election, contained in Section 709 of this Charter.

#### Section 503. Qualifications of the Mayor

The Mayor shall have resided in the Town for at least one year immediately preceding the election and shall be qualified to be registered voter of the Town. The Mayor shall maintain permanent residence in the Town during the term of office.

#### Section 504. Compensation of the Mayor

The Mayor shall receive annual compensation as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the compensation specified at the time any Mayor takes office shall not be changed during the term for which the Mayor was elected.

#### Section 505. Powers and Duties

- (a) Generally. – The Mayor shall be the chief executive officer of the Town government who shall enforce the laws of the Town of Kensington and oversee the administration by the Town Manager of the day to day affairs of the Town.
- (b) Other powers and duties. – The Mayor shall have such other powers and perform such other duties as may be prescribed by this charter or as may be required by the Council, consistent with this charter.

## ARTICLE VI

### POWERS OF THE COUNCIL

#### Section 601. General Powers

The Council shall have the power to pass all such ordinances or take other actions not contrary to the Constitution of the United States and the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the Town; for the protection and preservation of property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, and welfare, of the residents and visitors of the Town.

#### Section 602. Specific Powers

(a) The Council shall have, in addition, the power to pass ordinances not contrary to the Constitution of the United States and the laws and Constitution of Maryland, for the specific purposes provided in the remaining subsections of this section.

- (1) Administrative. To create, change or abolish offices and departments and to assign additional functions to offices and abolish or discontinue any office or department or to transfer any function of an office or department established by this charter.
- (2) Advertising. To provide for advertising for the purposes of the Town, for printing and publishing statements as to the business of the Town.
- (3) Amusements. To provide in the interest of the public welfare for licensing, or regulating theatrical or other public amusements.
- (4) Animals. To regulate the keeping of animals in Town and to provide for the licensing of them; to provide for the disposition of homeless animals on which no license fee is paid.
- (5) Appointments. To approve by majority vote the appointment by the Mayor of those officials described in Article IX, Section 906.
- (6) Appropriations. To appropriate municipal money for any purpose within the powers of the Council.
- (7) Billboards and Signs. To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the Town, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the Town.

- (8) Bridges. To erect and maintain bridges.
- (9) Buildings. To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the town, and to grant building permits for the same; to formulate a building code, and to approve the appointment of a building inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.
- (10) Code Enforcement. To enforce within the municipal limits of the Town the various Town, county and state codes, including but not limited to the health, building, housing, electrical, plumbing, fire and other codes, subject to any restrictions of the laws of the State of Maryland and Montgomery County; and to enforce the licensing provisions of the town, county and state within the municipal limits of the Town.
- (11) Cemeteries. To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.
- (12) Codification. To provide for the codification of all ordinances which have been or may hereafter be passed.
- (13) Community Services. To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the Town.
- (14) Intergovernmental Activities. To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.
- (15) Dangerous Conditions. To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.
- (16) Departments. To create, change, and abolish offices, departments, or agencies, other than the offices, departments, and agencies established by this charter; to assign additional functions or duties of offices, departments, or agencies established by this charter, but not including the power to discontinue or assign to any other office, department, or agency any function or duty assigned by this charter to a particular office, department, or agency.

- (17) Finances. To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have management accounting oversight of the finances of the Town; to appropriate municipal monies for any purpose within the powers of the Mayor and Council; to borrow money in accordance with the provisions of this charter.
- (18) Franchises. To grant and regulate franchises to water companies, electric light companies, telegraph and telephone companies, transit companies, taxicab companies, cable television systems (following current FCC regulations) and any others which may be deemed advantageous and beneficial to the Town, subject, however, to the limitations and provisions of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty (50) years.
- (19) Garbage. To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require waste or hazardous waste materials to be removed to designated points, and to require the occupants of the premises to place them conveniently for removal.
- (20) Grants-in-Aid. To accept gifts and grants of Federal or State funds from the Federal or State governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.
- (21) Hawkers. To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets within the Town, and to revoke such licenses for cause.
- (22) Health. To protect and preserve the health of the Town and its inhabitants; to approve the appointment of a public health officer, and to define and regulate the powers and duties of the office.
- (23) Licenses. Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.
- (24) Liens. To provide that any valid charges, taxes or assessments made against any real property within the Town shall be liens upon such property, to be collected as municipal or property taxes are collected.
- (25) Lights. To provide for the lighting of the Town.

- (26) Markets. To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the Town.
- (27) Public Improvements. To make and maintain public improvements and to acquire property within the corporate limits necessary for such improvements.
- (28) Public Privileges. To regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks posting handbills and advertisements, and display of goods, wares and merchandise.
- (29) Noise. To regulate or prohibit unreasonable noise.
- (30) Nuisances. To prevent or abate by appropriate ordinance all nuisances in the Town which are so defined as common law, by this Charter, by the laws of the State of Maryland, or Montgomery County whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require removal from the Town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, or injurious to the public comfort or health. In this connection the Town may regulate, prohibit, control the location of or require the removal from the Town of such things as cattle or hog pens, tanneries, or renderies. This listing is by way of enumeration, not limitation.
- (31) Obstructions. To remove all nuisances and obstructions for the streets, lanes and alleys from any lots adjoining thereto, or any other places within the limits of the town.
- (32) Parking Facilities. To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off-street parking.
- (33) Parking Meters. To install parking meters on the streets and public places of the Town in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Highway Administration of Maryland must first be approved by the administration.

- (34) Parks and Recreation. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the Town.
- (35) Police Force. To establish, operate, and maintain a police force. The police force may maintain a station lock-up facility for temporary confinement of violators of the law.
- (36) Police Powers. To prohibit, suppress, and punish within the Town all vice, gambling, and games of chance; prostitution and solicitation therefore and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness.
- (37) Property. To acquire by conveyance, purchase or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the Town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty-eight (28) days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the Town.
- (38) Regulations. To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.
- (39) Sidewalks. To regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalk in front thereof free from snow or other obstruction.
- (40) Streets. To construct, maintain and improve the streets and to control the public ways of the Town.
- (41) Voting Machines. To purchase, lease, borrow, install, and maintain voting machines for use in Town elections.

(b) Enumeration not exclusive. The enumeration of powers in this section is not to be construed as limiting the powers of the Council to the several subjects mentioned.

#### Section 603. Exercise of Powers

For the purpose of carrying out the powers granted in this subtitle or elsewhere in this Charter, the Council may pass all necessary ordinances or take such other actions as appropriate. All the powers of the Council shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed then in such manner as may be prescribed by ordinance.

#### Section 604. Enforcement of Ordinances

To assure the observance of the ordinances of the Town, the Council has such powers as are provided by State law. The Council may provide that, if the violation is of a continuing nature and is persisted in, a penalty for one violation shall not be a bar to a penalty for a continuation of the offence subsequent to the first or any succeeding penalty.

## ARTICLE VII

### REGISTRATION, NOMINATIONS AND ELECTIONS

#### Section 701. Qualifications of Voters

Every person who (a) is a citizen of the United States, (b) is at least eighteen (18) years of age, (c) has resided within the corporate limits of the Town for thirty (30) days, and (d) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the Town. Every qualified voter of the Town shall be entitled to vote at any or all Town elections.

#### Section 702. Board of Supervisors of Elections

There shall be a Board of Supervisors of Elections, consisting of three (3) members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in April. The terms of members of the Board of Supervisors of Election shall begin on the first Monday in April in the year in which they are appointed and shall run for one (1) year. Members of the Board of Supervisors of Elections shall be qualified voters of the Town and shall not hold or be candidates for any elective office during their terms of office. The Board shall appoint one of its members as Chairman. Vacancies on the board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation of the members of the Board shall be determined by the Council.

#### Section 703. Removal

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges for removal. There shall be a public hearing on the charges before the Council if the member of the Board so requests within ten (10) days after receiving the written copy of the charges.

#### Section 704. Duties

The Board of Supervisors of Elections shall administer nominations and all Town elections. The Board may appoint election clerks or other persons to assist it in any of its duties, but no salary, expenses, or other compensation shall be paid to such appointees except as provided by the Council. The Board shall be the judge of the election.

Section 705. Notice of Elections

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every election, by posting a notice thereof at Town Hall, to the official Town website, and to any Town-maintained e-mail listserv, and by publishing in the Town newsletter.

Section 706. Appeal of the Actions of the Board of Supervisors of Elections

If any candidate or other qualified voter shall feel aggrieved by the action of the Board of Supervisors of Elections, such person may appeal to the Council within fifteen (15) days of the action. Any decision or action of the Council upon such appeals may, in turn, be appealed to the Circuit Court for Montgomery County within thirty (30) days of the decision or action of the Council.

Section 707. Registration

- (a) Any person residing within the corporate limits of the Town of Kensington who is registered to vote with the Montgomery County Board of Supervisors of Elections and will be at least 18 years of age on election day shall automatically become a registered voter of the Town and be entitled to vote at general or special elections of the Town, provided that the application for such registration is received by the Montgomery County Board of Supervisors of Elections no later than 9:00 p.m. on the fifth Monday prior to an election. The Kensington Board of Supervisors of Elections shall accept the list of registered voters provided by the Montgomery County Board of Supervisors of Election as a valid registration list for the Town.
- (b) Registration of voters shall be permitted in the Town offices during regular office hours every day such offices are open, to develop a supplemental list of registered voters, and at such other times and places as the Council may establish from time to time. Town registration books shall be closed on the last Tuesday in May prior to the Town election. The Board of Supervisors of Elections shall keep the Town supplemental registration lists up to date by striking from the lists any persons who have died, or no longer maintain residence in the Town. The Council, by ordinance, may adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and provide for re-registration when necessary.

Section 708. Nominations

- (a) Persons may be nominated and qualify for elective office in the Town by filing a certificate of nomination and the financial disclosure required by Section 2-308 of the Kensington Code at the office of the Board of Supervisors of Elections on or before the second Monday in May preceding the Town election. No person shall file for nomination to more than one

elective Town public office or hold more than one elective Town public office at any one time.

- (b) In the event that no qualified candidate files for the office of Mayor or one or more Council seats on or before the second Monday in May prior to the election as required herein, then the deadline for receipt of certificates of nomination and authorizations is extended to the third Monday in May prior to the election.
- (c) No certificates of nomination for an individual shall be considered valid unless that individual possesses all the required qualifications for the office sought by the date of the filing.

#### Section 709. Election of the Mayor and the Council Members

- (a) On the first Monday in June in every even numbered year, the voters of the Town shall elect the Mayor and two (2) persons as Council Members. On the first Monday in June in every odd numbered year, the registered voters of the Town shall elect two (2) persons as Council Members. The Mayor and the Council Members shall serve for terms of two (2) years.
- (b) When a State of Emergency has been declared for the Town by the Mayor and Council, or by the State of Maryland or Montgomery County, pursuant to state or local law, and in the judgment of the Mayor and Council the State of Emergency prevents the safe, orderly and efficient conduct of a Town election, the Mayor and Council may, by resolution, postpone an election until such time as the election may be conducted in a safe, orderly and efficient manner and make necessary changes to the method, conduct, or voting system of an election to ensure an accurate vote count and certification of the election results.
- (c) The Mayor and Council may by resolution:
  - (1) Authorize an election to be conducted in whole or in part by mail, and
  - (2) Make provision for a drop-box for ballots at Town Hall.

#### Section 710. Conduct of Elections

It is the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 6:00 p.m. to 9:00

p.m. on election days or for such hours that the Council by resolution requires. The Board of Supervisors of Elections shall provide for absentee ballots.

As of the deadline for nomination set forth in Section 708, if the number of qualified candidates is not more than the number of seats to be filled, then no election will be held, and the qualified candidates shall be declared elected for the term by the Board of Supervisors of Elections at the next public meeting of the Mayor and Council.

#### Section 711. Special Elections

A special election may be called by a vote of the majority of the Town Council. All special Town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular Town elections.

#### Section 712. Vote Count

Within twenty-four (24) hours after the closing of the polls, or as soon as practicable thereafter, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Mayor of the Town who shall order the results recorded in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The two (2) Council Member candidates with the highest number of votes in the general election shall be declared elected as Council Members.

If two or more candidates for Mayor, or three or more candidates for Council Member, receiving the highest number of votes, receive an equal number of votes, the Mayor and Council shall direct the Board of Supervisors of Elections to administer a special election. The Supervisors of Elections shall declare the candidate for Mayor, and the two Council Member candidates, receiving the highest number of votes in the special election to be elected to the respective offices.

#### Section 713. Preservation of Ballots

All ballots used in any Town election shall be preserved for at least six (6) months from the date of the election.

#### Section 714. Vacancies

- (a) In the case of a vacancy for any reason in the position of Council Member which occurs ninety (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. For any such vacancy that occurs less than ninety (90) days prior to the expiration of the term the office shall remain vacant until filled at the next general election.

- (b) In the case of a vacancy in the office of Mayor for any reason, which occurs (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. In the case of any such vacancy which occurs less than ninety (90) days prior to the expiration of the term, the office shall remain vacant until filled at the next general election.

#### Section 715. Regulation and Control by Council

The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

#### Section 716. Penalties

Any person who (a) fails to perform any duty required of them under the provisions of this subtitle or any ordinances passed thereunder, (b) in any manner willfully or corruptly violates any of the provisions of this subtitle or any ordinances passed thereunder, or (c) willfully or corruptly does anything which will tend to affect fraudulently any nomination, or Town election, shall be deemed guilty of a misdemeanor. Any Council Member, officer, or employee of the Town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment.

#### Section 717. Recall of Elected Officials

The Mayor or a Council Member may be recalled or removed from office for failure to uphold the oath of office, malfeasance, misfeasance or nonfeasance in office, in accordance with the following procedure:

- (a) A petition stating specifically the justification for removal, signed by at least 30 percent (30%) of the registered voters of the Town, must be presented to the Council at a regular Town meeting stating a desire to have the named Town official subjected to reaffirmation by a vote of the electorate. A petition shall name only one Town official subject to recall. The registered Town voters shall sign said petition and under each signature shall be typed or printed each petitioner's name and address. At the bottom of each page of the petition, the individual circulating the petition shall sign the same and make an affidavit before a notary public that he or she circulated the petition and saw each individual whose name appears thereon sign the same in his or her presence.
- (b) Upon receipt of said petition, the Council shall forthwith refer the petition to the Board of Supervisors of Elections for verification of the appropriate

number of registered voters' signatures and addresses. The Board of Supervisors of Elections shall return said petition with their written findings as to registered voters and addresses to the Council at its next regular meeting; and at this meeting, if the petition is authenticated, the Council shall announce that within forty-five (45) days a special election will be held in order to allow all registered voters of the Town of vote on the petition.

- (c) The voting ballot will contain the official's name and the choice of "reaffirm" or "remove". In order for the official to be removed, two thirds of those voting must vote "remove".
- (d) The voting will be conducted in the same manner as prescribed herein for regular Town elections, and, if removal results, the vacancy will be filled as herein prescribed.

## ARTICLE VIII

### FINANCE

#### Section 801. Fiscal Year

The Town shall operate on an annual budget. The fiscal year of the Town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year.

#### Section 802. Proposed Budget

The Town Manager or Designee shall on such date as the Council may determine, but not later than the third Monday in April of each year, submit to the Council a proposed budget of anticipated revenues and proposed operating expenditures and proposed capital projects expenditures, including but not limited to vehicle, equipment and insurance reserves, for the coming year. Such proposed budget shall be supported by a written financial plan, including the basis for estimates of anticipated revenues and proposed operating and capital expenditures for the succeeding fiscal year and the major results to be achieved. The proposed budget shall be a public record and available in the Town office.

#### Section 803. Budget Adoption

Before adopting the budget the Council shall hold a public hearing thereon after due notice has been given in a newspaper of general circulation within the municipality. The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Council shall be necessary for adoption.

#### Section 804. Appropriations

No public money may be expended without having been appropriated by the Council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

#### Section 805. Transfer of Funds

Any transfer of funds between major appropriations for different purposes by the Mayor must be approved by the Council before becoming effective.

#### Section 806. Over-expenditure Forbidden

No officer or employee shall during any fiscal year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditures of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed through the capital projects expenditures budget, or in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the fiscal year in which such contract is made, when such contract is permitted by law.

#### Section 807. Appropriations Lapse After One Year

All appropriations except appropriations for capital project expenditures, which shall continue in force until expended, revised or repealed, shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds, except appropriations for capital project expenditures, shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the succeeding fiscal year.

#### Section 808. Checks

All checks issued in payment of Town obligations shall be signed by two persons who shall be designated from time to time by resolution of the Council, provided that if the Council shall fail to designate such persons, all checks shall be signed by the Mayor and counter-signed by the Town Manager. In either person's absence or incapacity, the President pro tem of the Council, or in his absence, a Council Member with the approval of a Majority of Council Members, may sign or countersign a check. The Council may authorize by resolution the use of facsimile signatures or mechanically produced signatures on such checks or may establish an alternate system whereby electronic payment(s) of authorized purchases may be accomplished through banking institutions, provided written documentation is maintained.

#### Section 809. Taxable Property

All real property and all tangible personal property within the corporate limits of the Town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any Act of the General Assembly.

Section 810. Budget Authorizes Levy

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year.

Section 811. Fees

All fees received by officials or employees of the Town government in their official capacities shall belong to the Town government and be accounted for to the Town.

Section 812. Audit

The financial books and accounts of the Town shall be audited annually as required by the Annotated Code of Maryland.

Section 813. Tax Anticipation Borrowing; Sale of Municipal Bonds or Notes

During the first six (6) months of any fiscal year, the Town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidences of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six (6) months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the Town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 814. Payment of Indebtedness

The power and obligation of the Town to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited and the Town shall levy ad valorem taxes upon all the taxable property of the Town for the payment of such bonds, notes, or other evidences of indebtedness, and interest thereon, without limitation or amount. The full faith and credit of the Town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes or other evidences of indebtedness, or in the Ordinance authorizing their issuance. All such bonds, notes or other evidences of indebtedness shall be issued in the manner prescribed by the Annotated Code of Maryland as the same may from time to time be amended, except that the limitations contained therein shall not apply to the issuance of bonds, notes or other

evidences of indebtedness by the Town of Kensington, but the Council Members of the Town shall have the option, in each instance, to determine whether any such bonds, notes, or other evidences of indebtedness shall be sold at public sale as prescribed by the Annotated Code of Maryland whether the same shall be sold by negotiation at private sale without solicitation or competitive bids.

Section 815. Previous Issues

All bonds, notes, or other evidences of indebtedness validly issued by the town previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

Section 816. Purchasing and Contracts

The Council shall provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all Town purchases and contracts.

## ARTICLE IX

### ADMINISTRATION

#### Section 901. Authority to Employ Personnel

The Town shall have the power to employ such officials and employees and by ordinance or resolution adopt a personnel policy as it deems necessary to execute the powers and duties provided by this Charter or other State Law and to operate the Town government.

#### Section 902. Personnel Regulations

The Council shall have the power to adopt personnel regulations governing the employees of the Town, which may include the establishment of a merit system.

#### Section 903. Retirement System

The Town shall have the power to do all things necessary to include its employees within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Town.

#### Section 904. Compensation of Employees

The compensation of all officials of the Town shall be set from time to time by ordinance passed by the Council.

#### Section 905. Employee Benefit Programs

The Town is authorized and empowered, by ordinance, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its employees, and to expend public monies of the Town for such programs.

#### Section 906. Town Attorney

The Mayor with the approval of the Council may appoint a Town attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal adviser of the Town and shall perform such duties in this connection as may be required by the Council or the Mayor. The Town shall have the power to employ such other legal consultants, as it deems necessary from time to time.

## Section 907. Town Manager

- (a) Creation and appointment – the position of Town Manager is created. The Town Manager shall be appointed by the Mayor with approval of a majority of the Council.
- (b) Removal – The Town Manager shall serve at the pleasure of the Mayor and Council, and may be removed by a Resolution approved by the Mayor and a majority vote of the Council.
- (c) Powers and Duties – The Town Manager shall be the Chief Administrative Officer of the Town. The Town Manager shall:
  - (1) Appoint and remove all subordinate officers and employees in accordance with the rules and regulations of any merit system adopted by the Council.
  - (2) Direct and supervise the administration of all departments, offices and agencies of the Town, manage the Public Works Department, except as otherwise provided by this charter or by law, and develop administrative policies, regulations and procedures for approval by the Council.
  - (3) Attend all meetings of the Mayor and Council, unless excused therefrom by the Mayor, and attend, when necessary, all meetings of the Committees of the Mayor and Council.
  - (4) Ensure that all laws and Ordinances are duly enforced.
  - (5) In cooperation with the Mayor, prepare the budget annually and submit it to the Council for approval and be responsible for the administration of the budget after its approval and adoption.
  - (6) Recommend to the Governing Body, at the time the budget is presented, a pay plan for Town employees.
  - (7) Submit to the Town Council and make available to the public a complete report on the Finances and Administrative activities of the Town as of the end of each fiscal year.
  - (8) Keep the Mayor and Council advised of the financial condition and future needs of the Town and make such recommendations as the Town Manager may deem desirable.
  - (9) Make recommendations to the Town Council concerning the affairs of the Town.

- (10) Provide staff support services for the Mayor and Council members.
  - (11) Execute contracts on behalf of the Town after any Council approval required by Section 816 of the Charter and Section 2-401 et Seq. of the Town Code, and administer and manage all Town contracts.
  - (12) Make investigations into the affairs of the Town or any Department thereof. Investigate all complaints in relation to all matters concerning the administration of the government of the Town and in regard to service maintenance by the public utilities in the Town and see that franchises, permits, and privileges granted by the Town are faithfully observed.
  - (13) Devote entire work time to the discharge of official duties. Outside employment is not allowed.
  - (14) Perform such duties as may be required of him/her by the Mayor and/or the Mayor and Council not inconsistent with any laws or Ordinances.
  - (15) Be completely removed from the nomination or election of any public official in the Town or in Montgomery County and engage in no political activity whatsoever with regard to Town Elections.
  - (16) Maintain the permanent record of Charter Amendments and Ordinances adopted by the Council, and, in conjunction with the Town Attorney, prepare Ordinances and Resolutions for the Council.
- (d) Neither the Mayor nor any member of the Council shall be appointed as Town Manager during the term for which they have been elected, nor within one year after expiration of their term.

## ARTICLE X

### PUBLIC WAYS AND SIDEWALKS

#### Section 1001. Definition of Public Ways

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

#### Section 1002. Control of Public Ways

The Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the Town generally may do whatever it deems necessary to establish, operate, maintain or close the public ways of the Town.

#### Section 1003. Public Ways; Powers

The Town may:

- (a) establish, regulate, and change from time to time the grade lines, width, and construction materials of any Town public way or part thereof, bridges, curbs, and gutters.
- (b) grade, lay out, construct, open, extend, and make new Town public ways.
- (c) grade, straighten, widen, alter, improve, or close any existing Town public way or part thereof.
- (d) pave, or resurface any Town public way or part thereof.
- (e) install, construct, reconstruct, repair, and maintain curbs and/or gutters along any Town public way or part thereof.
- (f) construct, reconstruct, maintain, and repair bridges.
- (g) name Town public ways.
- (h) have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.
- (i) abandon public ways.

#### Section 1004. Sidewalks; Powers

The Town shall have the power to:

- (a) Establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on Town property along any public way or part thereof.
- (b) Grade, lay out, construct, reconstruct, pave, repair, extend, or otherwise alter sidewalks on Town property along any public way or part thereof and assess the costs as follows: up to two-thirds (2/3) thereof against the abutting property owner and the balance thereof against all the assessable property within the corporate limits. The proportion of the assessment against the abutting property owner or owners shall conform as nearly as possible to the proportion of benefit derived on a front foot basis. The cost so assessed shall be a lien on the property and shall be collectible in the same manner as are Town taxes or by suit at law. The Town may provide by ordinance for a deferred payment plan (not to exceed ten (10) years) for the payment of such expenses.
- (c) In the case of the erection of a new dwelling or commercial facility, require and order the owner of any property abutting on a public way to perform any work authorized by this Section solely at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order in a reasonable time the Town may perform the work and the expense for such shall be collectible as provided in subsection (b).

#### Section 1005. Storm Water Management Facilities Powers

The Town shall have the power to:

- (a) Plan, design, construct, acquire, repair, reconstruct, operate, and maintain within and without the Town facilities for the handling of storm waters and other surface waters.
- (b) Regulate the construction, repair, reconstruction, operation and maintenance by others of such facilities.
- (c) Have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.
- (d) Do all things it deems necessary for the efficient operation and maintenance of the above systems.

- (e) In the case of new construction, require the owner of any property abutting on any public way in the Town which generates stormwater run-off to perform any projects authorized by this Section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the Town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are Town taxes or by suit at law.

## ARTICLE XI

### SPECIAL ASSESSMENTS

#### Section 1101. Power

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation, or construction, of storm water management facilities, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land, acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, and a reasonable charge for the services of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the project.

#### Section 1102. Procedure

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

- (a) Cost. The cost of the project shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.
- (b) Assessment. The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the Town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.
- (c) Classes. When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.
- (d) Special charges. All special assessment charges shall be levied by the Council by ordinance. Before levying any special assessment charges, the Council shall hold a public hearing. The Town Manager or Designee shall cause notice to be given stating the nature and extent of the proposed

project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the Town. The Town Manager or Designee shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the Town Manager or Designee shall have completed publication and service of notice as provided in this section. Following the hearing the Council, at its discretion, may vote to proceed with the project and may levy the special assessment.

- (e) Appeals. Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Montgomery County within sixty (60) days after the levying of any assessment by the council pursuant to the rules governing administrative appeals.
- (f) Payments. Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten (10) years, and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.
- (g) When due. All special assessment installments shall be overdue six (6) months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as Town taxes or by suit at law.
- (h) Billings. All special assessments shall be billed and collected in the same manner as Town property taxes.

## ARTICLE XII

### TOWN PROPERTY

#### Section 1201. Acquisition, Possession and Disposal

The Town may acquire real, personal, or mixed property within the corporate limits of the Town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the Town (by whatever prior name known) at the time this Charter becomes effective are vested in the Town, subject to the terms and conditions thereof.

#### Section 1202. Condemnation

The Town shall have the power to condemn property of any kind, or interest therein or franchises connected therewith, in fee or as an easement, within the corporate limits of the Town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any other State law applicable to the Town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation purpose. The manner of procedure in case of any condemnation proceeding shall be that established in the Annotated Code of Maryland.

#### Section 1203. Town Buildings

The Town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Town government.

#### Section 1204. Protection of Town Property

The Town shall have the power to do whatever may be necessary to protect Town property and to keep all Town property in good condition.

## ARTICLE XIII

### GENERAL PROVISIONS

#### Section 1301. Oath of Office

- (a) Before entering upon the duties of their office, the Mayor, the Council Members, the Town Manager, the members of the Board of Supervisors of Election, and all other persons elected or appointed to any office of profit or trust in the Town government shall take and subscribe to the following oath or affirmation: “I ..... do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, support the Constitution and Laws of Maryland; and uphold the Laws of Montgomery County, Maryland and the Charter and Code of the Town of Kensington; and that I will, to the best of my skill and judgement, diligently and faithfully, without partiality or prejudice, execute the office of ....., according to the Constitution and Laws of this State.”
- (b) The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Montgomery County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor.

#### Section 1302. Official Surety Bonds

The Town Manager and such other officers or employees of the Town as the Council or this Charter may require, shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the Town.

#### Section 1303. Prior Rights and Obligations

All right, title, and interest held by the town or any other persons or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the Town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offences already committed against any law or ordinance repealed by this charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this charter had not become effective.

Section 1304. Violations of Law

- (a) Misdemeanors. Every act or omission which, by ordinance, is made a misdemeanor under the authority of this Charter, unless otherwise provided shall be punishable upon conviction before the District Court of Maryland or in the Circuit Court for Montgomery County by a fine not exceeding one thousand dollars (\$1000.00) or imprisonment for six (6) months in the county jail, or both, at the discretion of the court. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.
- (b) Municipal Infractions. The Council may provide that violations of any municipal ordinance shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the State or other ordinance. For purposes of this section a municipal infraction is a civil offense. A fine not to exceed five hundred dollars (\$500.00) may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the Town within 20 calendar days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed one thousand (\$1000.00) for each repeat offense, and each day a violation continues shall constitute a separate offense. Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the Town in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial may result in an additional fine or adjudication by the court. Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

Section 1305. Effect of Charter on Existing Ordinances

- (a) All ordinances, resolutions, rules, and regulations in effect in the Town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.
- (b) All ordinances, resolutions, rules, and regulations in effect in the Town at the time this Charter becomes effective which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict.

#### Section 1306. Separability

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

#### Section 1307. Proposed Charter Amendments

A public hearing is required prior to adoption of a Charter Amendment Resolution. Upon formal introduction, the proposed Charter Amendment Resolution or a fair summary thereof, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council, shall be:

1. Posted at the Town Hall by the next business day;
2. Posted on the official Town website;
3. Sent to those persons listed on the official Town email list/mail subscription service; and
4. Published once prior to the public hearing in the Town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the proposed Charter Amendment Resolution with or without amendments or reject it.

